



Patent  
Attorney Docket No. 022650-685

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Richard Derose et al.

Application No.: 10/023,839

Filing Date: December 21, 2001

Group Art Unit: 1638

Examiner: GEORGIA L HELMER

Confirmation No.: 4793

Title: ISOLATED DNA SEQUENCE CAPABLE OF SERVING AS REGULATORY ELEMENT IN A CHIMERIC GENE WHICH CAN BE USED FOR THE TRANSFORMATION OF PLANTS

SUBMISSION OF TERMINAL DISCLAIMER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Attached please find an executed Terminal Disclaimer in connection with the application identified above.

The requisite fee is ☐ \$55.00 (2814) ☒ \$110.00 (1814) .

☐ Charge \_\_\_\_\_ to Deposit Account No. 02-4800 for the fee due.

☒ A check in the amount of \$ 110.00 is enclosed for the fee due.


☐ Charge \_\_\_\_\_ to credit card. Form PTO-2038 is attached.

This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

By   
Susan M. Dadio  
Registration No. 40,373

Date: November 2, 2004

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)  
022650-685

In re Patent Application of: Richard Derosé et al.

Application No.: 10/023,839

Filed: December 21, 2001

**FOR PUBLICATION**  
**ISOLATED DNA SEQUENCE CAPABLE OF SERVING AS REGULATORY ELEMENT IN A CHIMERIC GENE  
WHICH CAN BE USED FOR THE TRANSFORMATION OF PLANTS**

The owner\*, Rhone Poulenc Agrochimie (nka Bayer CropScience S.A.)

of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,338,961. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

  
Signature

November 2, 2004  
Date

Susan M. Dadio  
Typed or printed name

(703) 836-6620  
Telephone Number

- ☐ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this statement. See MPEP § 324.